

**MINUTES**  
**IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK**  
**FUND PROGRAM**

**May 25, 2006**

**COMMISSIONER'S CONFERENCE ROOM**  
**IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET**  
**DES MOINES, IOWA**

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 10:02 A.M. A quorum was present. Roll call was taken with the following Board members present:

Cathy Rottinghaus (via telephone)  
Liz Christiansen (for Jeffrey Vonk)  
Stephen Larson (for Michael Fitzgerald)  
Doug Beech  
Jim Holcomb  
Jeff Robinson

Also present were:

David Steward, Attorney General's Office  
Tim Benton, Attorney General's Office  
Scott Scheidel, Program Administrator  
Lacey Skalicky, Program Administrator's Office  
James Gastineau, Program Administrator's Office

**APPROVAL OF PRIOR BOARD MINUTES**

The minutes from the April 28, 2006 meeting were reviewed. Mr. Larson moved to approve the minutes, Ms. Christiansen seconded the motion, and by a vote of 5-0, the minutes were approved.

**CLOSED SESSION**

Ms. Voss noted there were matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21. A roll call vote was taken with all members voting aye. In addition to Board members and counsel, Mr. Scheidel was present to provide technical and administrative assistance to the Board. Closed session was convened at 10:03 A.M. and adjourned at 10:26 A.M. Ms. Voss noted that there were no votes taken during closed session.

## **PUBLIC COMMENT**

Ms. Voss requested any comments from the public present. There were no comments at this time.

## **BOARD ISSUES**

### **A. Legislative Summary**

Mr. Scheidel discussed with the Board the final legislation that passed out of the 2006 Legislative Session.

Mr. Scheidel noted that the requested additional language regarding the reversion of any unused funds to go back to the Funds they were taken from, associated with House File 2754's establishment of a Renewable Fuels Infrastructure Board, was included in the final version of the standings bill. He stated that the Petroleum Marketers and Convenience Stores of Iowa (PMCI) had been working to get the Iowa UST Board more involved with the administration of the Renewable Fuels Infrastructure Fund; however they could not get any of that language included in the bill by the end of session. Therefore the administration process remained at the discretion of the Department of Economic Development (DED). He explained that PMCI representatives were meeting with DED staff to discuss an agreement to include the Iowa UST Fund Board to assist with the administration of the new program, however he said that the DED already had a relationship with the Renewable Fuels Association for the administration of last year's program, and he expected the DED to use the same administration process for this new program.

Mr. Scheidel stated the Iowa UST Board's responsibilities to the new program remained the same as before – at least three Board members must make themselves available to the Renewable Fuels Infrastructure Board when they make grant application decisions. Ms. Christiansen, Mr. Beech and Ms. Voss volunteered to make themselves available for the task. Mr. Scheidel reminded the Board that the Infrastructure Board was made up of 11 members from various interested organizations. He also confirmed to the Board that the Iowa UST Fund was tapped to help finance the Infrastructure Board Fund for \$3.5M in fiscal year 2007 and another \$3.5M in fiscal year 2008.

### **B. DNR Staff Assistance**

Mr. Scheidel carried in and distributed a memo to the Board discussing the 28E agreement with the Department of Natural Resources (DNR) that formerly provided staff assistance through a contract with Preston Engineering Inc. for the completion of report reviews. Because that agreement and associated contract had expired on December 31, 2005, the Iowa UST Board approved a 28E agreement with the DNR to hire four temporary, full-time employees to complete report reviews, while the DNR staff worked to identify inefficiencies within their processes to streamline the flow of reports through the Department. That agreement was set to expire on June 30, 2006 and the funding was not to exceed \$150,000.

Mr. Scheidel explained that the DNR had requested the agreement be extended to use the entire \$150,000 in funding for their temporary staff, given their proven worth to the DNR and given

the progress that DNR staff had made in their business process improvement meetings. He elaborated on the ideas presented in the business process improvement meetings, stating the discussions had included possibly recalibrating the RBCA Tier 2 software to be more realistic based on historical findings at sites, simpler reporting to allow closure of sites following remediation or monitoring or both, prioritization of DNR staff workloads, and improved education for groundwater professionals (GWP's) for lessons learned through the process.

Mr. Scheidel recommended the Board amend the agreement to extend the expiration date to September 30, 2006, allowing the \$150,000 to be used completely for this task. Mr. Holcomb moved approval of the recommendation and Mr. Beech seconded the motion. Ms. Christiansen abstained from the vote. Approved 4-0.

Next Mr. Scheidel discussed another 28E agreement between the Board and the DNR for funding the UST compliance section of the DNR for fiscal year 2006. He referred to the agreement that involved the equivalent of tank management fees of approximately \$400,000 to be paid from the UST Fund to the DNR for the UST section. In addition, that agreement provided for additional funding tied to quarterly milestones completed by DNR staff, namely UST inspections and DNR rule making and adoption for the 3<sup>rd</sup> party inspection program. He stated that a fourth milestone involved the transfer of the UST Installers/Inspectors Licensing Program from the UST Fund Board's responsibilities to the DNR. Mr. Scheidel explained that he and David Steward had drafted an agreement to provide for fiscal year 2007 funding to the UST section of the DNR, contingent on the Department taking over the UST Licensing Program, in exchange for the equivalent of tank management fees paid in quarterly installments. In addition to the tank fees, Mr. Scheidel mentioned that the Board may want to consider including additional funding for the Department in the FY07 agreement for the achievement of goals that help the Board meet their mission, ie closure of sites. He discussed that some GWP firms provide incentives to their employees to complete more Tier 2 reports, for example. The United States Environmental Protection Agency (EPA) sets goal numbers for states for closure of sites each year. Therefore, Mr. Scheidel suggested the Board may want to include an incentive payment for the Department to issue No Further Action certificates (NFA's) in a percentage in excess of the EPA's goal for the year. Mr. Scheidel inquired how the Board members felt about such an agreement. Mr. Beech indicated he liked the idea, but would like to have additional information.

Ms. Douskey, Supervisor of the LUST/UST section of the DNR, stated the current year's EPA goal, which would end on September 30, 2006, was 150 sites closed. It was still not known what the 2007 EPA goal would be. Mr. Steward explained that such a provision within the agreement was by nature a pure incentive award, and the DNR staff was not obligated to meet the goal set by the agreement, however the Board would be required to pay the incentive award, if the goal was met by the Department. Additionally, no prorated amounts would be paid for a number of sites closed short of the goal. If the Board agreed to include such a provision in the FY07 funding agreement, Mr. Scheidel stated the proposed incentive language would be effective July 1, 2006.

Ms. Christiansen expressed her concern that the DNR could not budget for the long term when allowed funding on a year to year basis, and she requested the Board consider a multi-year agreement. Mr. Holcomb inquired if the Board members and the Administrator had envisioned the perpetuity of these funding agreements for DNR. Mr. Steward responded by stating that

the purpose of last year's funding agreement was to replace a loss of some annual federal funding previously received by the DNR. He stated the DNR would need to adjust to operations with lesser funding, and the Iowa UST Board had agreed to assist by filling in some funding gaps. In addition, he explained that the Board had discussed allowing the tank management fees collected by the DNR, 77% of which goes into to the Iowa UST Fund, to revert back to the DNR to assist with UST section operations, in the absence of the previously collected federal funds. Mr. Scheidel stated the agreements were written annually to coincide with both State agencies' fiscal year budgets. The DNR as a whole only receives an appropriation on a year to year basis. He stated that future years may show that the Department will be able to operate on less than the amount of tank fees, and therefore the agreement could be written for less funding than the entire, projected tank fee amount.

Mr. Holcomb agreed with Mr. Beech that the funding incentive idea sounded interesting, but he too wanted more information. Mr. Steward reminded the Board that the 28E agreement could be amended at anytime throughout the year to include additional incentive language.

Ms. Christiansen again recommended the Board consider a multi-year agreement to allow for a more long-term solution for the DNR. Tim Hall, of the DNR, explained to the Board that he was largely focused on retaining all of the tank management fees collected by the DNR to allow the Department to complete their long term budgeting. The DNR currently retained 23% of tank fees, while 77% went to the Iowa UST Fund, as dictated by a bond agreement. However, Mr. Hall stated that the DNR could plan and implement long-term projects and staffing if they could count on retaining 100% of those fees, by agreement with the Board, into the future. He also stated he was in favor of the idea of tying additional incentive funding to closing more sites, because that additional funding, in turn, would allow the DNR to continue to close more sites.

Mr. Scheidel suggested the Board consider a 28E agreement for FY07 funding, which would allow the Board to transfer the licensing program to DNR and remove the Board completely from the UST business. Once the transfer of the licensing program is complete through agreement and adoption of statutory authority, he said the Board may look at a long term 28E agreement with the DNR for continuous funding for multiple years to involve the transfer of tank management fees back to the DNR. Mr. Scheidel stated that in recent years, the Iowa UST Fund's portion of the tank management fees have reached \$400,000 annually.

Ms. Voss suggested that Mr. Scheidel provide the Board members with a copy of the agreement draft for review prior to the next Board meeting in June. Mr. Scheidel agreed, and promised to provide historical EPA goals set for State closure of sites.

### **DNR Update**

Elaine Douskey, supervisor of the LUST/UST section of the DNR, discussed the recent meeting at the EPA's Region VII in Kansas City, attended by DNR staff. She explained that the current year's goal set for Iowa for site closures was 130, and the Iowa DNR committed to closing 20 more by September 30, 2006, in order to secure an additional EPA grant.

She revealed that the 3<sup>rd</sup> party inspection program continued to develop with DNR IT staff and DNR UST staff working together to develop a database for inspections, and inspector certification forms, instructions and a training manual had been drafted and were under review. Regarding the stakeholder meetings to improve the LUST section, Ms. Douskey explained that the first meeting involved the DNR presentation of staff goals, and the second meeting was a request for stakeholders to provide a list of their requests and ideas. At the third meeting, the stakeholders' ideas were rated based on cost and feasibility. Some of the ideas which developed from the meetings included: increased education and communication with GWP's, prioritizing sites, calibrating the Tier 2 model to be better equipped with what is going on with the actual plume, more equitable and more frequent DNR enforcement, more advertising to get more responsible parties eligible for the global settlement program, more aggressive free product recovery and source removal at sites.

Lastly, Ms. Douskey stated the DNR had just under 990 high risk sites, and they had addressed almost one third of those through corrective action meetings resulting in 282 Memoranda of Understanding (MOA's). She stated that as a result, the DNR had received several site monitoring reports (SMR's) to reclassify the high risk sites to lower risk classifications. She summarized by saying the DNR was making progress.

### **PROGRAM BILLINGS**

Mr. Scheidel presented the current monthly billings to the Board for approval.

1. Aon Risk Services .....\$ 112,830.33  
Consulting Services – June 2006 (\$62,750.00)  
Claims Processing Services – June 2006 (\$50,080.33)
2. Attorney General's Office .....\$8,554.50  
Services provided for Underground Storage Tank Program  
April 2006 billing

No additional billings for outside cost recovery counsel were presented by the Attorney General's office for this meeting. On a motion by Ms. Christiansen and a second by Mr. Holcomb, the billings were approved by a vote of 5-0.

### **MONTHLY ACTIVITY REPORT**

Mr. Scheidel presented to the Board the April activity report and financials that were included in the Board packet for their review. Mr. Scheidel stated that stakeholders continued to request that the Fund Administrator's Office contact claimants whose claims had no recent activity. He explained that GAB Robins had been doing that for quite awhile, and he noted the continued trend to close claims on the activity report across all claim types.

Mr. Scheidel also stated the fiscal year 2005 audit was completed and the reports should be released at the end of June 2006. He explained that he'd requested the State Auditor's Office provide additional information in their reporting to reveal the Fund's long term liability.

## **ATTORNEY GENERAL'S REPORT**

Mr. Steward stated that he had nothing to report to the Board at this time.

### **CLAIM AUTHORITY**

Mr. Gastineau presented the following claim authority requests:

#### **1. Site Registration 7910521 – John C. Struyk, Perry**

This site was classified as high risk for two residential basements and the on-site sewer service line, which was classified as residential. An excavation was to be completed at the site in the summer or fall of 2006. If the groundwater concentrations did not decline after a couple of post-excavation monitoring events a soil vapor extraction/ air sparge (SVE/AS) system might be necessary in the backfill. Previous authority to \$75,000 had been granted, of which \$23,547.50 was expended to date. Additional authority to \$200,000 was requested for a site monitoring report (SMR) and implementation of an excavation.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 5-0.

#### **2. Site Registration 9016976 – Aztec Motors Inc., Des Moines**

This site was classified high risk for the groundwater vapor pathway for residential sewers and a residential basement receptor. Vapor sampling at the groundwater source had failed. Undiscovered soil contamination was suspected. If identified, an excavation would be completed. Otherwise a SVE/AS system would be installed. Previous authority to \$75,000 had been granted, of which \$36,626.03 was expended to date. Additional authority to \$250,000 was requested for a site monitoring report (SMR), a corrective action design report (CADR), and implementation of the CADR.

A motion to approve the claim authority was submitted by Mr. Beech and seconded by Ms. Christiansen. Approved 5-0.

#### **3. Site Registration 7910209 – ChevronTexaco, Mt. Pleasant**

Non-eligible and excess costs of \$43,802.98 had been deducted from the total costs incurred to date. The excavation was limited in scope by the highway and structures. The excavation resulted in all monitoring wells measuring contamination below site-specific target levels (SSTL's), except one monitoring well and the residual soil. The site remained high risk for soil leaching and groundwater for vapor to PVC water lines pathways. The levels had been going down and it was possible that SSTL's may be met without further remediation. Previous authority to \$75,000 had been granted, of which \$75,877.28 was expended to date. Additional authority to \$175,000 was requested for a SMR, a possible CADR, and implementation of the excavation.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

#### **4. Site Registration 8605331 – Budde’s Short Stop, Dubuque**

This site was classified high risk for multiple pathways, but close private wells were the driving receptors. The site had been handled under a community remediation project (CRP) until recently. The SSTL for the closest well was 9 ppb. The Administrator’s Office was exploring the feasibility of an excavation, which would be followed by more monitoring or a system. Previous authority to \$75,000 had been granted, of which \$98,760.83 was expended to date under the CRP claim. Additional authority to \$300,000 was requested for a SMR, a possible CADR, and possible implementation of an excavation.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Approved 5-0.

#### **5. Site Registration 8606322 – Kum & Go LC, Fairfield**

This was a third Board report for this site, which was still above SSTL’s for soil vapor, soil leaching to groundwater vapor and groundwater vapor pathways. Soil gas attempts had failed. A third excavation was proposed, as required by the DNR. The site was high risk for newly installed PVC water main in the modeled plume, however the Fund was not completing any work for that pathway. Previous authority to \$305,000 had been granted, of which \$221,656.48 was expended to date. Additional authority to \$450,000 was requested for a SMR and implementation of an excavation.

Mr. Beech questioned how the site had required three excavations. Mr. Gastineau explained that each time an excavation was performed it was hoped to reduce contaminant levels enough, but too much of the contamination remained under the active station building, and they were to do shoring near the road, as well as, to install a vapor trenching system to remove the vapors from the soil that could not be removed.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 5-0.

#### **6. Site Registration 8606490 – Casey’s Marketing Co., Gilmore City**

This site was classified high risk for groundwater vapor to enclosed space for two residential basements and five residential sewers. The site was also high risk for groundwater to plastic water line for two PVC mains that were not in the actual plume. Soil vapor sampling at the groundwater source had failed and the site had free product. An excavation was to be completed in conjunction with a planned UST replacement, allowing for significant contamination to be removed. A passive vent system was to be installed in the excavation backfill. Additional remediation, such as SVE/AS, may be necessary in the future. Previous authority to \$75,000 had been granted, of which \$66,166.36 was expended to date. Additional authority to \$225,000 was requested for a SMR, free product recovery (FPR), and implementation of an excavation.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Ms. Christiansen. Mr. Beech abstained from the vote. Approved 4-0.

**7. Site Registration 7910153 – Mr. Jim’s Dry Cleaning, Muscatine**

This site was classified low risk for the groundwater to protected groundwater source pathway. It was unlikely that the site would reach the target levels in the near future, so monitoring was to be required for many more years. The site had free product in the past. Currently, limited free product had been noted and the DNR may grant the consultant’s request to cease recovery activities if free product does not return by November 2006. Previous authority to \$75,000 had been granted, of which \$87,772.62 was expended to date. Additional authority to \$115,000 was requested for a SMR and FPR.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 5-0.

**8. Site Registration 8601176 – Robertson DX, Barnes City**

This site was classified high risk for the groundwater ingestion and soil leaching for 4 water wells. The original board report, presented in October 2005, was deferred with the request from the Board that further attempts be made to reclassify the wells. Over the past 8 months, this action was attempted on several levels however none of the well owners were willing to close their wells. In the interim, other issues had materialized including a direct impact to a surface water receptor and information indicating that a new municipal sewer system would be installed near the site. In a recent corrective action meeting, it was agreed to complete an excavation to remove the soil and groundwater contaminant sources, with monitoring to follow the excavation to allow for continued natural attenuation of the contaminant plumes. The DNR had agreed to this approach with the idea that the site would be re-evaluated after two years. Previous authority to \$75,000 had been granted, of which \$53,276.12 was expended to date. Additional authority to \$275,000 was requested for a SMR and implementation of an excavation.

A motion to approve the claim authority was submitted by Ms. Christiansen. No one seconded the motion. Mr. Gastineau reminded the Board that Barnes City did have a public water system. The municipal water well was severed from the public water system. A sign was posted on the municipal well stating it was non-potable water, and a letter was submitted to DNR’s water supply section from the City of Barnes City stating the municipal would not be used for drinking water. The DNR LUST section would still not consider the well a non-drinking water well. One of the three private wells was located on a vacant property, and no one was certain who owned the property. The two remaining private water wells at risk were cross-gradient from the plume, and the owners refused to connect to public water. The surface water impact involved water in a ditch a block from the site where a storm sewer had emptied heavy rain water from most of downtown Barnes City. A sheen was noted on the water in this ditch, however it could not be determined if the sheen was caused by product from the Robertson site or from other sources downtown. Also, Mr. Gastineau stated the city sewer system might create a vapor pathway.



Mr. Scheidel inquired if the DNR agreed to classify the municipal well as a non-drinking well, and if the private well on the vacant property were plugged, could not the two remaining private wells be analyzed in a Tier 3 model to determine they are not at risk due to their locations being cross-gradient. Mr. Gastineau agreed that was a viable approach, however the GWP working for the site would not do a Tier 3. After brief discussion, Mr. Beech made a motion to allow the Administrator's Office to hire a groundwater professional on behalf of the Board to investigate options for this site. Mr. Holcomb seconded the motion, and it was approved by a vote of 5-0.

#### **CONTRACTS ENTERED INTO SINCE THE APRIL 28, 2006 BOARD MEETING**

The Board had not entered into any contracts or agreements since the April 28, 2006 meeting.

#### **OTHER ISSUES**

The Board discussed their scheduling conflicts for the Annual Strategic Planning Session in July. The Board members decided to hold a regular Board meeting on Thursday, June 22, 2006 at the Insurance Division. The annual meeting would be held on Thursday, August 24, 2006 at the Iowa 80 Truckstop in Walcott, Iowa.

Additionally, Mr. Scheidel made the Board aware that the federal energy bill discussed at the regional EPA meeting had revealed some new requirements for states to follow, and many of those ideas were already in place at the Iowa DNR – showing their progressive approach for completing these objectives.

#### **CORRESPONDENCE AND ATTACHMENTS**

Ms. Voss asked if there was any further business, and there being none, Ms. Rottinghaus moved to adjourn, and Mr. Holcomb seconded the motion. The Board adjourned at 11:29 A.M.

Respectfully Submitted,

Scott M. Scheidel  
Administrator